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WEINGARTEN, SCHURGIN, GAGNEBIN & HAYES LLP
Ten Post Office Square
Boston, Massachusetts 02109

In re Application of	:	
ADE CORPORATION	:	DECISION ON
Application No.: 09/914,456	:	
PCT No.: PCT/US00/34806	:	RENEWED PETITION
Int. Filing Date: 22 December 2000	:	
Priority Date: 30 December 1999	:	UNDER 37 CFR 1.47(a)
Attorney's Docket No.: ADE-066XQ999	:	
For: SPECIMEN TOPOGRAPHY RECONSTRUCTION	:	

This decision is in response to applicants' renewed petition under 37 C.F.R. 1.47(a) filed on 06 May 2002.

BACKGROUND

The renewed petition includes a statement that the last known address of Mr. Belyaev, the non-signing inventor, is: 707 Continental Circle, Apartment 531, Mountain View, CA 94040. The renewed petition further includes a signed affidavit by Mr. Belyaev which includes an express written refusal to sign the Declaration and Power of Attorney because of a pending lawsuit between ADE Corporation, KLA-Tencor Corporation, and Mr. Belyaev and a signed declaration by Lin Olsen.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Regarding item (1), applicants paid the required fee in the petition filed 28 August 2001 and no further fee is necessary.

MPEP 409.03(d) (August 2001) states in part:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal

must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Accordingly, applicants have satisfied items (1) - (4) above.


CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(c) will be published in the Official Gazette.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for processing as the U.S. National Stage of the above-identified international application, including according the application a date under 35 U.S.C. 371(c) of 28 August 2001.



Gregory Vidovich
PCT Legal Detailee
PCT Legal Office



Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-1315
Facsimile: (703) 308-6459